

FILED

JAN 03 2023

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
DEPUTY CLERK

LINUS EKENE, #:F84633
Name and Prisoner/Booking Number

SALINAS VALLEY STATE PRISON
Place of Confinement

P.O. BOX 1050
Mailing Address

SOLEDAD, CALIFORNIA 93960
City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LINUS EKENE
(Full Name of Plaintiff) Plaintiff,

v.

CASE NO. 2:22-CV-1443-TLN-JDP
(To be supplied by the Clerk)

(PC)

JURY TRIAL DEMANDED

(1) R. COOK
(Full Name of Defendant)

(2) D. LAUGHLIN

(3) R. AGREDA

(4) _____

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CIVIL RIGHTS COMPLAINT
BY A PRISONER

☐ Original Complaint

☒ First Amended Complaint: 2:22-cv-01443-TLN-JDP

☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).

☐ Other: _____

2. Institution/city where violation occurred: MULE CREEK STATE PRISON

B. DEFENDANTS

1. Name of first Defendant: R. COOK. The first Defendant is employed as:
CORRECTIONAL OFFICER at MULE CREEK STATE PRISON
(Position and Title) (Institution)
2. Name of second Defendant: D. LAUGHLIN. The second Defendant is employed as:
CORRECTIONAL OFFICER at MULE CREEK STATE PRISON
(Position and Title) (Institution)
3. Name of third Defendant: R. AGREDANO. The third Defendant is employed as:
CORRECTIONAL OFFICER at MULE CREEK STATE PRISON
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as:
_____ at _____
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If yes, how many lawsuits have you filed? 7. Describe the previous lawsuits:

a. First prior lawsuit:

1. Parties: LINUS EKEKE v. L. FOWLER ET AL.
2. Court and case number: 2:19-CV-06995-DPP-SDE
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
STILL PENDING

b. Second prior lawsuit:

1. Parties: LINUS EKEKE v. DR. S. BURKE ET AL.
2. Court and case number: 2:20-CV-01835
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
STILL PENDING

c. Third prior lawsuit:

1. Parties: LINUS EKEKE v. E. BROUSSARD ET AL.
2. Court and case number: 2:20-CV-01255
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?)
STILL PENDING

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

CLAIM I

1. State the constitutional or other federal civil right that was violated: U.S. CONSTITUTION FIRST AMENDMENT RIGHTS VIOLATION-DEFENDANTS ACTED UNDER THE COLOR OF LAW

2. **Claim I.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input checked="" type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

CONTINUED ON PAGE: 7

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

CONTINUED ON PAGE: 7

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Claim I? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Claim I to the highest level? ☒ Yes ☐ No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. DUE TO COVID-19, APPEALS OFFICE IS "SHORT STAFFED" SO THEY ISSUED ME MEMOS STATING THAT THEY ARE NOT ABLE TO GIVE ME RESPONSE WITHIN 60 DAYS. SEE EXHIBIT SO ADMINISTRATIVE REMEDIES WERE NOT AVAILABLE WITH SOME OF THE APPEALS. CONSEQUENTLY, ALL ADMINISTRATIVE REMEDIES WERE EXHAUSTED.

CLAIM III

1. State the constitutional or other federal civil right that was violated: U.S. CONST. EIGHT AMEND. RIGHTS VIOLATION- DEFENDANTS WERE ACTING UNDER THE COLOR OF LAW.

2. Claim III. Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|---|---|---|--|
| <input checked="" type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input checked="" type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

CONTINUED ON PAGE 12

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

CONTINUED ON PAGE 12

5. **Administrative Remedies.**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- Did you submit a request for administrative relief on Claim III? ☒ Yes ☐ No
- Did you appeal your request for relief on Claim III to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

DUE TO COVID-19, APPEALS IS "SHORT STAFFED," SO THEY ISSUED ME MEMOS STATING THAT THEY ARE NOT ABLE TO GIVE ME RESPONSE WITHIN 60 DAYS. SEE EXHIBIT 59. ADMINISTRATIVE REMEDIES WERE NOT AVAILABLE WITH SOME OF THE APPEALS. CONSEQUENTLY, ALL ADMINISTRATIVE REMEDIES WERE EXHAUSTED.

If you assert more than three Claims, answer the questions listed above for each additional Claim on a separate page.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LINUS EKENE,
PLAINTIFF

PREVIOUS LAWSUITS

V.

R. COOK, ET AL.,
DEFENDANTS.

REGARDING MY REMAINING "PREVIOUS LAWSUITS"
NOT LISTED, I DO NOT HAVE MY LEGAL PROPERTY
CONTAINING THE INFORMATION ABOUT THE "PREVIOUS
LAWSUITS". SO, I AM NOT GOING TO BE ABLE TO LIST
THEM.

RESPECTFULLY SUBMITTED,
LINUS EKENE

E. REQUEST FOR RELIEF

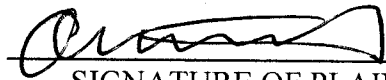
State the relief you are seeking:

CONTINUED ON PAGE 16

I declare under penalty of perjury that the foregoing is true and correct.

Executed on DECEMBER 20, 2022

DATE



SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.

CONTINUATION CLAIM I:

(1) SUPPORTING FACTS RETALIATION CLAIM:

2) DUE TO THE FACTS THAT I FILES LAWSUITS AND 602'S, CORRECTIONAL OFFICERS: R. COOK, D. LAUGHLIN, AND R. AGREANO STARTED ISSUING ME MEALS TAINTED WITH PAIN CAUSING CHEMICALS WHEN I COMPLAINED COOK HIT ME WITH HIS METAL BATON ON MY FACE AND KICKED ME ON MY LEG AND SCARRED ME.

3) FURTHERMORE, COOK, LAUGHLIN, AND AGREANO CONSPIRED AND PLANTED A DEADLY WEAPON IN MY CELL AND MOVED ME TO ADMINISTRATIVE SEGREGATION ("AD-SES").

4) THE "DA" DROPPED THE WEAPON POSSESSION CHARGE WHEN THEY FOUND OUT THAT COOK ETC. WERE UNDER INVESTIGATION FOR PLANTING THE DEADLY WEAPON IN MY CELL.

5) I WAS IN "AD-SES" FROM SEPTEMBER 8, 2020 TILL DECEMBER 18, 2020—TOTAL OF HUNDRED AND ONE DAYS (101 DAYS).

6) ON JUNE 24, 2020, DURING BREAKFAST, I NOTICED THAT THE CONTENTS INSIDE THE KOSHER-BREAKFAST, PAPER-CONTAINERS WERE ALREADY OPENED.

7) WHEN I COMPLAINED LAUGHLIN SAID TO ME "YOU GET WHAT YOU GET," AND COOK SAID THAT HE WILL KNOCK ME OUT.

8) LAUGHLIN STARTED THROWING PUNCHES IN THE AIR.

9) I TOLD THESE OFFICERS THAT I WAS GOING TO FILE 602 ABOUT THEM ISSUING ME MEALS TAINTED WITH PAIN CAUSING CHEMICALS THAT CAUSES ME PAINFUL DIARRHEA AND BLOODY STOOLS. ALSO, MAKE COMPLAINT ABOUT THEIR BEHAVIOR; FURTHER, I TOLD THEM THAT THEIR ACTIONS VIOLATED MY U.S. CONSTITUTION FIRST

1 CONT. CLAIM I:

2 AMENDMENT RIGHTS AND U.S. CONSTITUTION EIGHT AMEND. RIGHTS.

3 10) I WALKED BACK TO MY CELL, AND COOK FOLLOWED ME BACK
4 TO MY CELL, AND HIT ME ON THE FACE WITH HIS BATON WHICH
5 CAUSED MY FACIAL SKIN TO SPLIT OPEN. ALSO, COOK KICKED
6 ME ON MY LEG AND SAID: REMEMBER TO SPELL MY NAME CORRECT
7 ON YOUR 602.

8 11) IN THE MORNING OF SEPTEMBER 8, 2020, COOK AND LAUGHLIN
9 CAME TO MY CELL AND LAUGHLIN SAID TO ME: WE ARE TIRED OF
10 YOU WRITING 602'S AND THAT HE WANTS ME TO MOVE OUT OF
11 BUILDING-5.

12 12) COOK SAID TO ME: IF YOU DO NOT MOVE, WE WILL PUT
13 A WEAPON IN YOUR CELL AND MOVE YOU TO "AD-SEG".

14 13) SAME DAY, ON SEPTEMBER 8, 2020, APPROXIMATELY, 12:00 NOON,
15 COOK, LAUGHLIN AND OFFICER BECKHAM ETC. CAME TO MY CELL
16 AND ORDERED ME TO LEAVE MY CELL BECAUSE, THEY WANT TO
17 SEARCH MY CELL BECAUSE I WAS PLACED ON "C-STATUS".

18 14) DUE TO THE FACT THAT THEY HAD, ALREADY, TOLD ME EARLIER
19 THAT MORNING THAT THEY WILL PLANT A WEAPON IN MY CELL,
20 I STARTED MAKING NOISES AND ATTRACTED ATTENTION OF OTHER
21 INMATES.

22 15) CONSEQUENTLY, ALL THE INMATES WERE LOOKING IN THE
23 DIRECTION OF MY CELL, AND I WAS STANDING BY THE ENTRANCE
24 TO MY CELL OBSERVING WHAT THEY WERE DOING.

25 16) SO, THEY WERE NOT ABLE TO PLANT THE WEAPON
26 AT THAT TIME.

27 17) AFTER THEY FINISHED SEARCHING MY CELL THEY CONFISCATED
28 MY AM/FM RADIO, FAN ETC.

1 CONT. CLAIM I!

2 18) AGAIN, ON THE SAME DAY, SEPTEMBER 8, 2020, APPROXIMATELY,
3 2:30 PM, WHILE I WAS AT THE YARD, AGREDA AND APPROACHED ME AND
4 SAID TO ME THAT HE CONDUCTED A SEARCH, AGAIN, IN MY CELL AND
5 FOUND A WEAPON IN MY CELL.

6 19) AGREDA TOOK ME TO "AD-SEC," AND ON THE WAY TO "AD-SEC,"
7 HE SAID TO ME: WE GOT RID OF YOU; ^{ARE} YOU ARE NOT GOING TO
8 BE WRITING 602'S IN "AD-SEC" AGAINST US.

9 20) AGREDA TOOK AWAY MY PRESCRIPTION EYEGLASSES
10 AS RETALIATION, AND FOR OVER SEVEN MONTHS I WAS
11 WITHOUT EYEGLASSES.

12
13 21) DEFENDANT: I, OFFICER R. COOK

14 22) DUE TO THE FACT THAT I HAD FILED NUMEROUS APPEALS ("602'S")
15 AGAINST OFFICER COOK, HE RETALIATED AGAINST ME BY HITTING ME
16 WITH HIS METAL BATON, KICKING ME ON MY LEG, AND PLANTED A
17 WEAPON IN MY CELL AND SENT ME TO "AD-SEC." HIS ACTIONS CHILLED MY
18 U.S. CONST. FIRST AMENDMENT RIGHTS, AND HIS ACTIONS DID NOT FURTHER
19 ANY PENOLOGICAL INTERESTS.

20 23) ON JUNE 24, 2020, DURING BREAKFAST, I NOTICED THAT THE
21 BREAKFAST THAT COOK AND LAUSHLIN GAVE ME WERE ALREADY
22 OPENED AND TAINED WITH PAIN AND DIARRHEA CAUSING CHEMICALS.
23 WHEN I COMPLAINED, COOK TOLD ME THAT HE WAS GOING TO "KNOCK
24 ME OUT".

25 24) I TOLD OFFICER COOK AND LAUSHLIN THAT I WAS
26 GOING TO FILE "602" ABOUT RECEIVING TAINED MEALS
27 EVERY DAY, AND I WALKED BACK TO MY CELL.

28 25) COOK FOLLOWED ME BACK TO MY CELL AND HIT ME WITH

1 CONT. CLAIM I:

2 HIS METAL BATON WHICH CAUSED MY FACIAL SKIN TO SPLIT OPEN.
3 ADDITIONALLY, HE KICKED ME ON MY LEGS - HE USED EXCESSIVE
4 AND UNNECESSARY FORCE ON ME.

5 26) ON SEPTEMBER 8, 2020, APPROXIMATELY 7:30 AM, COOK
6 CAME TO MY CELL WITH LAUGHLIN. BECAUSE I HAD FILED NUMEROUS
7 602'S AGAINST COOK; COOK TOLD ME THAT IF I DO NOT MOVE
8 OUT OF BUILDING 9-5 THAT HE WAS GOING TO PLANT A WEAPON
9 IN MY CELL AND MOVE ME TO "AD-SEG".

10
11 27) DEFENDANT: II, OFFICER LAUGHLIN

12 28) BECAUSE I HAD FILED NUMEROUS 602'S AGAINST LAUGHLIN,
13 HE CONSPIRED WITH COOK AND AGREDANO AND PLANTED
14 WEAPON IN MY CELL AND MOVED ME TO "AD-SEG".

15 29) LAUGHLIN, ALSO, ISSUED ME MEALS TAINTED WITH
16 PAIN AND DIARRHEA CAUSING CHEMICALS REGULARLY. HIS
17 ACTIONS CHILLED MY U.S. CONST. FIRST AMEND. RIGHTS; AND HIS
18 ACTIONS DID NOT ADVANCE ANY PENOLOGICAL INTERESTS.

19 30) ON JUNE 24, 2020 DURING BREAKFAST, LAUGHLIN
20 AND COOK ISSUED ME MEALS TAINTED WITH CHEMICALS
21 WHEN I TOLD HIM TO EXCHANGE IT, HE TOLD ME; YOU GET
22 WHAT YOU GET.

23 31) WHEN OFFICER COOK TOLD ME THAT HE WAS GOING TO
24 "KNOCK ME OUT" - LAUGHLIN STARTED THROWING PUNCHES
25 IN THE AIR.

26 32) ON SEPTEMBER 8, 2020, IN THE MORNING, LAUGHLIN
27 CAME TO MY CELL AND SAID TO ME: WE ARE TIRED OF YOU
28 WRITING 602'S AND THAT HE WANTS ME TO MOVE OUT OF

1 CONT. CLAIM II

2 BUILDING-5; COOK SAID IF DO NOT MOVE WE WILL PUT A WEAPON
3 IN YOUR CELL AND MOVE YOU TO "AD-SEG".

4
5 33) DEFENDANT: ITT, OFFICER R. AGREDA AND

6 BECAUSE I FILED NUMEROUS BOZ'S AGAINST AGREDA AND HE
7 CONSPIRED WITH COOK AND LAUSHLIN, AND PLANTED A WEAPON
8 IN MY CELL AND MOVED ME TO "AD-SEG".

9 34) AGREDA AND, ALSO, TOOK AWAY MY EYEGLASSES THAT I
10 WAS WEARING AS RETALIATION. HIS ACTIONS CHILLED MY
11 U.S. CONST. FIRST AMEND. RIGHTS, AND HIS ACTIONS DID NOT
12 FURTHER ANY LEGITIMATE PENOLOGICAL INTEREST.

13 35) ON SEPTEMBER 8, 2020 APPROXIMATELY, 2:30PM,
14 WHILE I WAS AT THE YARD, AGREDA AND APPROACHED ME
15 AND SAID TO ME THAT HE CONDUCTED A SEARCH IN MY
16 CELL AND FOUND A WEAPON IN MY CELL.

17 36) AGREDA AND TOOK ME TO "AD-SEG," AND ON THE WAY TO
18 "AD-SEG," HE SAID TO ME: WE GOT RID OF YOU; YOU ARE NOT
19 GOING TO BE WRITING BOZ'S IN "AD-SEG" AGAINST US.

20 37) AGREDA AND TOOK AWAY MY PRESCRIPTION EYEGLASSES
21 THAT I WAS WEARING AS RETALIATION, AND FOR APPROXIMATELY
22 SEVEN MONTHS I WAS WITHOUT EYEGLASSES.

1 CONTINUATION CLAIM II:

2
3 38) SUPPORTING FACTS, U.S. CONSTITUTION EIGHT
4 AMENDMENT VIOLATION CLAIM:

5
6 39) DUE TO THE FACTS THAT I FILES LAWSUITS AND 602's,
7 CORRECTIONAL OFFICERS: R. COOK, D. LAUGHLIN, AND R. AGREDA
8 STARTED ISSUING ME MEALS CONTAMINATED WITH PAIN CAUSING
9 CHEMICALS THAT CAUSED ME TO HAVE BLOODY STOOLS AND
10 PAINFUL DIARRHEA. WHEN I COMPLAINED, COOK HIT ME WITH HIS
11 METAL BATON ON MY FACE, WHICH SCARRED MY FACE, ALSO COOK
12 KICKED ME ON MY LEG.

13 40) AGREDA SEIZED MY PRESCRIPTION EYEGLASSES AS
14 RETALIATION, AND I WAS WITHOUT PRESCRIPTION EYEGLASSES
15 FOR APPROXIMATELY "SEVEN MONTHS".

16 41) THESE OFFICERS STARTED CONTAMINATING MY MEALS
17 ("DAILY") WITH PAIN AND BLOODY STOOLS CAUSING CHEMICALS
18 FROM MAY 2020 UNTIL SEPTEMBER 8, 2020 (APPROXIMATELY
19 FOUR MONTHS).

20 42) STARTING FROM JULY 4, 2020 TILL JULY 18, 2020
21 ALL THE MEALS THAT I RECEIVED WAS NOT ONLY ROTTEN
22 AND TAIKED, BUT ALSO COLD - FOR TWO WEEKS.

23 43) COOK, LAUGHLIN, AND AGREDA CONSPIRED AND
24 PLANTED A DEADLY WEAPON IN MY CELL AND MOVED ME TO
25 ADMINISTRATIVE SEGREGATION ("AD-SES") AS RETALIATION.

26 44) I WAS IN "AD-SES" FROM SEPTEMBER 8, 2020 UNTIL
27 DECEMBER 18, 2020 - TOTAL OF HUNDRED AND ONE DAYS (101 DAYS).

28 45) I LOST "GOOD TIME CREDITS" BECAUSE OF THE

1 CONT. CLAIM II.

2 DEADLY WEAPON POSSESSION CHARGE.

3 46) THE "DA" DROPPED THE DEADLY WEAPON POSSESSION
4 CHARGE WHEN THEY FOUND OUT THAT COOK ETC. WERE UNDER
5 INVESTIGATION FOR PLANTING THE DEADLY WEAPON IN MY CELL.

6 47) BECAUSE AGREDAÑO SEIZED MY PRESCRIPTION EYEGLASSES,
7 MY HEAD WAS SWOLLEN, SIMULTANEOUSLY, ON DIFFERENT SPOTS -
8 CONSTANTLY - FROM STUMBLING ON OBJECTS AND HITTING
9 ~~AND~~ MY HEAD AGAINST THE WALL AND THE FLOOR.

10
11 48) DEFENDANT: I, OFFICER R. COOK

12 49) OFFICER R. COOK USED "EXCESSIVE AND UNNECESSARY
13 FORCE" ON ME. ALSO, HE SUBJECTED ME TO CRUEL AND
14 UNUSUAL PUNISHMENT.

15 50) ON JUNE 24, 2020, DURING BREAKFAST, I NOTICED THAT
16 THE BREAKFAST THAT COOK AND LAUGHLIN GAVE ME WERE
17 ALREADY OPENED, AND AS USUAL, TAINTED WITH PAIN AND
18 DIARRHEA CAUSING CHEMICALS.

19 51) WHEN I COMPLAINED, COOK TOLD ME THAT HE WAS
20 GOING TO "KNOCK ME OUT".

21 52) I TOLD OFFICER COOK AND LAUGHLIN THAT I WAS
22 GOING TO FILE 602 ABOUT RECEIVING TAINTED MEALS
23 EVERYDAY, AND I WALKED BACK TO MY CELL.

24 53) COOK FOLLOWED ME BACK TO MY CELL AND HIT ME
25 WITH HIS METAL BATON, WHICH CAUSED MY FACIAL SKIN
26 TO SPLIT OPEN AND HE SCARRED MY FACE. ADDITIONALLY,
27 HE KICKED ME ON MY LEG; THEREBY, USING EXCESSIVE AND
28 UNNECESSARY FORCE ON ME.

1 CONT. CLAIM II:

2 54) DEFENDANT: II, OFFICER D. LAUGHLIN

3 55) OFFICER LAUGHLIN SUBJECTED ME TO CRUEL AND UNUSUAL
4 PUNISHMENT.

5 56) LAUGHLIN CONSPIRED WITH COOK AND ISSUED ME
6 TAINTED MEALS WITH CHEMICALS THAT CAUSED ME TO HAVE
7 PAINFUL DIARRHEA AND BLOODY STOOLS FOR ABOUT FOUR
8 MONTHS.

9 57) ON ONE OF THE DAYS I CAME TO PICK UP MY FOOD
10 I NOTICED, AS USUAL, THAT MY FOOD WAS ALREADY OPENED.
11 I TOLD LAUGHLIN TO EXCHANGE IT.

12 LAUGHLIN SAID TO ME, "THAT'S WHAT YOU GET," AND
13 LAUGHLIN CONTINUED, "I WILL GIVE YOU DIARRHEA AS LONG
14 AS YOU ARE IN THIS BUILDING".

15 58) AS I TURNED TO LEAVE, LAUGHLIN SAID TO ME,
16 "ENJOY THE FOOD". DEFENDANT COOK STARTED TO LAUGH.

17 59) ON ANOTHER DAY, JUNE 24, 2020, DURING BREAKFAST,
18 I NOTICED THAT THE BREAKFAST THAT COOK AND LAUGHLIN
19 GAVE ME WERE ALREADY OPENED AND AS USUAL, TAINTED
20 WITH CHEMICALS THAT CAUSE PAINFUL DIARRHEA AND BLOODY
21 STOOLS.

22 60) WHEN I COMPLAINED, ~~OFFICER COOK~~ AND TOLD LAUGHLIN
23 TO EXCHANGE IT, HE SAID TO ME: YOU GET WHAT YOU GET.

24 61) THEN, COOK TOLD ME THAT HE WAS GOING TO KNOCK ME
25 OUT; LAUGHLIN STARTED THROWING PUNCHES IN THE AIR
26 DISPLAYING HIS BOXING SKILLS.

27 62)

1 ~~61~~) CONT. CLAIM II:

2 62) DEFENDANT: III, OFFICER R. AGREDAÑO

3 63) AGREDAÑO SUBJECTED ME TO CRUEL AND UNUSUAL PUNISHMENT.

4 64) ON SEPTEMBER 8, 2020 WHEN AGREDAÑO ESCORTED ME
5 TO THE "AD-SEQ" ON FALSE WEAPON POSSESSION CHARGE, HE
6 SNATCHED MY PRESCRIPTION EYEGLASSES FROM MY FACE AND
7 SEIZED THEM.

8 65) I TOLD AGREDAÑO TO RETURN MY EYEGLASSES THAT I NEED
9 MY PRESCRIPTION EYEGLASSES TO SEE; HE REFUSED.

10
11 66) BECAUSE AGREDAÑO SEIZED MY PRESCRIPTION EYEGLASSES,
12 MY HEAD WAS SWOLLEN, SIMULTANEOUSLY, ON DIFFERENT SPOTS
13 -CONSTANTLY- FROM STUMBLING ON OBJECTS AND HITTING MY
14 HEAD AGAINST THE WALL AND THE FLOOR.

15 67) I WAS WITHOUT MY PRESCRIPTION EYEGLASSES FOR
16 APPROXIMATELY SEVEN MONTHS.

17 68) AGREDAÑO WAS ISSUING ME MEALS TAINED WITH
18 CHEMICALS THAT CAUSES PAINFUL DIARRHEA AND BLOODY STOOLS

19 69) I WAS ALWAYS TIRED BECAUSE I WAS ABSTAINING FROM
20 EATING DUE TO CONSTANT POISONING OF MY FOOD BY
21 DEFENDANTS' ALSO, RECEIVING MOLDY FOOD FROM THE DEFENDANTS.
22
23
24
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28

1 CONTINUATION REQUEST FOR RELIEF:

2
3 70) CLAIMS FOR RELIEF:

4
5 71) DEFENDANT COOK'S KICKING OF PLAINTIFF'S LEG AND HITTING
6 PLAINTIFF WITH HIS METAL BATON CAUSING PLAINTIFF'S FACIAL
7 SKIN TO SPLIT, ALSO, DEFENDANT COOK'S PLANTING OF DEADLY
8 WEAPON IN PLAINTIFF'S CELL AND SENDING PLAINTIFF TO "AD-SEC"
9 BECAUSE HE WAS ENGAGED IN PROTECTED ACTIVITY VIOLATED
10 PLAINTIFF'S U.S. FIRST AND EIGHT CONSTITUTIONAL AMENDMENT
11 RIGHTS.

12 72) DEFENDANT LAUGHLIN'S ISSUING OF PLAINTIFF TAINTED MEALS,
13 CONSPIRING WITH COOK AND AGREDAÑO, AND PLANTING DEADLY
14 WEAPON IN PLAINTIFF'S CELL BECAUSE HE WAS ENGAGED IN
15 PROTECTED ACTIVITY, VIOLATED PLAINTIFF'S U.S. FIRST AND
16 EIGHT CONSTITUTIONAL AMENDMENT RIGHTS.

17 73) DEFENDANT AGREDAÑO'S ISSUING OF PLAINTIFF TAINTED
18 MEALS, CONSPIRING WITH COOK AND LAUGHLIN AND PLANTING
19 OF DEADLY WEAPON IN PLAINTIFF'S CELL, ALSO, AGREDAÑO'S
20 SEIZING OF PLAINTIFF'S PRESCRIPTION EYEGLASSES BECAUSE
21 PLAINTIFF WAS ENGAGED IN PROTECTED ACTIVITY VIOLATED
22 PLAINTIFF'S FIRST AND EIGHT U.S. CONSTITUTION EIGHT AMENDMENT
23 RIGHTS.

24 74) PLAINTIFF SUING DEFENDANTS: R. COOK, D. LAUGHLIN,
25 AND R. AGREDAÑO IN THEIR "INDIVIDUAL" CAPACITY.

26 I TOLD THE DEFENDANTS THAT THEIR ACTIONS WERE VIOLATING MY
27 U.S. CONST. FIRST AND EIGHT AMENDMENT RIGHTS, BUT THEY WERE
28 ADAMANT.

1 CONT. REQUEST FOR RELIEF:

2
3 75) PRAYED FOR RELIEF:

4 76) WHEREFORE, PLAINTIFF, HUMBLY, REQUESTS THAT THIS COURT GRANT
5 THE FOLLOWING RELIEF:

6 A) THAT COURT ENTER JUDGEMENT DECLARING THE ACTS OF DEFENDANTS:
7 R. COOK, D. LAUGHLIN, AND R. AGREDA VIOLATED THE RIGHTS OF THE
8 PLAINTIFF UNDER THE FIRST AND EIGHT U.S. CONSTITUTIONAL
9 AMENDMENT RIGHTS.

10 B) THAT THE COURT AWARD INJURIES DAMAGES TO THE PLAINTIFF

11 C) THAT THE COURT AWARD PAIN AND SUFFERING DAMAGES TO
12 THE PLAINTIFF.

13 D) THAT THE COURT AWARD PUNITIVE DAMAGES TO PLAINTIFF.

14 E) THAT THE COURT AWARD COMPENSATION FOR EMOTIONAL AND
15 MENTAL PAIN TO PLAINTIFF.

16 F) THAT THE COURT AWARD GENERAL DAMAGES TO PLAINTIFF.

17 G) THAT THE COURT GRANT SUCH OTHER FURTHER RELIEF TO PLAINTIFF
18 AS IT DEEMS APPROPRIATE.

19 H) GRANT APPOINTMENT OF COUNSEL.

20 I) PLAINTIFF IS "PRO SE" REQUESTING FOR THE COURT TO HOLD
21 THIS COMPLAINT TO LESS STRICT STANDARD, THAN THE COMPLAINT
22 DRAFTED BY AN ATTORNEY SEE: KOLEY V. GIBSON, 355 U.S. 41 (1957)

23
24 DECEMBER 20, 2022

RESPECTFULLY SUBMITTED,

25 SIGN: 

26 NAME: LINUS EKENÉ / PLAINTIFF.

Memorandum



To: Claimant

Subject: **TIME-EXPIRED RESPONSE FROM THE OFFICE OF APPEALS**

Thank you for submitting your appeal for review by the California Department of Corrections, Office of Appeals. Pursuant to Title 15, section 3486(i)(10), if the Office of Appeals is not able to respond to a claim in 60 calendar days, as in this case, then the claim must be answered "time-expired." As a result, the answer provided by the Office of Grievances remains unchanged and this appeal is now closed. No further action will be taken by the Department and no appeal of this action is permitted under the regulations.

Also, pursuant to Title 15, section 3485(e), "The appeal package submitted by the claimant shall be stored electronically by the Department. The CDCR Form 602-2 shall contain a notification to the claimant that the documents submitted will not be returned to the claimant." Therefore, your original grievance form and any supporting documents are not included with this response.

However, a copy of your entire appeal package is maintained in your Central File. The process for requesting copies of documents contained in Central Files, often referred to as an Olsen review, can be found in Department Operations Manual, sections 13030.16 and 13030.17.

Thank you,

HOWARD E. MOSELEY
Associate Director



CALIFORNIA DEPARTMENT of
Corrections and Rehabilitation

CLAIMANT APPEAL CLAIMS DECISION RESPONSE

Re: Appeal Claims Decision Response

Offender Name: EKENE, LINUS WINBURY

Date: 10/26/2020

CDC#: F84633

Current Location: MCSP-Facility C

Current Area/Bed: C 012 2 - 244001U

Log #: 000000011026

Claim # 001

Institution/Parole Region of Origin: Mule Creek State Prison

Facility/Parole District of Origin: MCSP-Facility A

Housing Area/Parole Unit of Origin:

Category: Offender Safety and Security

Sub-Category: Use of Force

The California Department of Corrections and Rehabilitation (CDCR) Office of Appeals received this claim on 08/26/2020.

California Code of Regulations, title 15, provides the Office of Appeals 60 calendar days to complete a response. Due to the expiration of time, this response by the Office of Appeals will be the only response.

You do not need to resubmit this claim to the Office of Grievances or to the CDCR Office of Appeals.

Decision: Time Expired

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL

CDCR 602 (REV. 08/09)

LOG NO. 11026

DEPARTMENT OF CORRECTIONS AND REHABILITATION

STAFF COMPLAINT PURSUANT TO CCR SECTION 3084.9(a)(5)(A)

Side 1

IAB USE ONLY

Institution/Parole Region:	Log #:	Category:

FOR STAFF USE ONLY

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations, Title 15, (CCR) Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First):

CDC Number:

Unit/Cell Number:

Assignment:

MR. EKENE, LINUS

FB4633

A5, 246

EOP

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.): OFFICER COOK USED EXCESSIVE AND UNNECESSARY FORCE ON ME BECAUSE I TOLD HIM THAT I WAS GOING TO FILE A "602" AGAINST HIM.

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): ON JUNE 24, 2020, AROUND 6:20 AM, OFFICER COOK ISSUED TO ME KOSHER BREAKFAST. THE CONTENTS INSIDE THE "PAPER BOX" CONTAINING THE BREAKFAST WERE ALREADY OPENED. I ASKED OFFICER COOK TO EXCHANGE THE

B. Action requested (If you need more space, use Section B of the CDCR 602-A): I WANT PERSONNEL ADVERSE ACTION

Supporting Documents: Refer to CCR 3084.3.

☐ Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

☐ No, I have not attached any supporting documents. Reason:Inmate/Parolee Signature: EKENE LINUS Date Submitted: JULY 1, 2020☒ By placing my initials in this box, I waive my right to receive an interview.

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? ☐ Yes ☐ No

This appeal has been:

☐ Bypassed at the First Level of Review. Go to Section E.☐ Rejected (See attached letter for instruction) Date: _____☐ Cancelled (See attached letter) Date: _____☐ Accepted at the First Level of Review.

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: ☐ Granted ☐ Granted in Part ☐ Denied ☐ Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ (Print Name) Title: _____ Signature: _____ Date completed: _____

Reviewer: _____ (Print Name) Title: _____ Signature: _____

Date received by AC: _____

PAGE 20 OF 23

STAFF USE ONLY

JUL 02 2020

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

INMATE/PAROLEE APPEAL FORM ATTACHMENT

CDCR 602-A (REV. 03/12)

STAFF COMPLAINT PURSUANT TO CCR SECTION 3084.9(a)(5)(A)

Side 1

IAB USE ONLY	Institution/Parole Region:	Log #:	Category:
FOR STAFF USE ONLY			

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First):	CDC Number:	Unit/Cell Number:	Assignment:
MR. EKENE, LINUS	FB4633	A5, 246	EOP
<p>A. Continuation of CDCR 602, Section A only (Explain your issue): <u>BREAKFAST, BUT HE REFUSED</u> <u>OFFICER D. LAUGHLIN INTERSECTED AND SAID, "YOU</u> <u>GET WHAT YOU GET."</u> <u>I SAID TO OFFICER COOK, "I WILL WRITE A "602" ABOUT</u> <u>THIS INCIDENT."</u> <u>OFFICER COOK YELLED ANGRILY AT ME, "I WILL KNOCK</u> <u>YOU OUT."</u> <u>AND OFFICER D. LAUGHLIN STARTED THROWING PUNCHES</u> <u>IN THE AIR WHILE I WALKED BACK TO MY CELL. OFFICER</u> <u>COOK CAME TO MY CELL AND KICKED ME ON MY RIGHT LEG,</u> <u>AND FURTHERMORE, HIT ME WITH METAL BATON ON MY FACE</u> <u>AND SPLIT OPEN MY FACIAL SKIN, AND SAID TO ME REMEMBER</u> <u>TO SPELL MY NAME RIGHT WHEN YOU WRITE THE "602" ALSO,</u> <u>ON JUNE 22, 2020, AROUND 6:20 AM, OFFICER COOK ISSUED</u> <u>TO ME KOSHER BREAKFAST AND THE CONTENTS WERE ALREADY</u> <u>OPENED. WHEN I ASKED HIM TO REPLACE IT, HE REFUSED."</u></p>			<p>Y L N O W O L L JUL 02 2020 L O</p>
Inmate/Parolee Signature: <u>Linus Ekene</u>		Date Submitted: <u>JULY 1, 2020</u>	

B. Continuation of CDCR 602, Section B only (Action requested): I WANT PERSONNEL ADVISORY
ACTION

NAME and NUMBER: **EKENE, F84633**

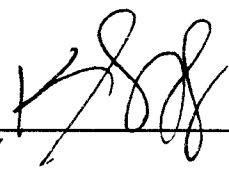
CASE: **12036**

RVR: **7028528**

VIOLATION: **Possession of Weapon**

DATE: **9-8-20**

On **9-18-20**, the above-noted case was referred to the Amador County District Attorney's Office for prosecution determination. At this time, the case is still in review at the DA's office. You will receive notification when a decision is made.



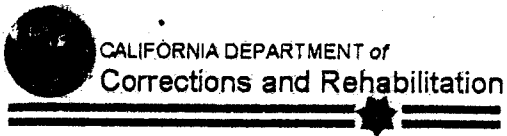
K. STALEY
Investigative Services Unit
Mule Creek State Prison

October 19, 2020

DISTRICT ATTORNEY REFERRAL

MCSP

128-B



CLAIMANT GRIEVANCE CLAIMS DECISION RESPONSE

Re: Grievance Claims Decision Response

Offender Name: EKENE, LINUS WINBURY

Date: 04/02/2021

CDC#: F84633

Current Location: MCSP-Facility A

Current Area/Bed: A 005 2 - 238001U

Log #: 000000088819

Claim #: 001

Institution/Parole Region of Origin: Mule Creek State Prison

Facility/Parole District of Origin: MCSP-Facility A

Housing Area/Parole Unit of Origin:

Category: General Employee Performance

Sub-Category: Other Staff Misconduct - NOS

The California Department of Corrections and Rehabilitation (CDCR) Office of Grievances at MCSP-Facility A received your claim on 02/16/2021.

California Code of Regulations, title 15, provides CDCR Office of Grievances 60 calendar days to complete a response.

Although 60 calendar days have passed since your claim concerning General Employee Performance; Other Staff Misconduct - NOS was received, your claim is still under inquiry or investigation. Due to the expiration of time, this response by the Office of Grievances will be the only response.

You will be notified once the inquiry or investigation of the issue concerning your claim has been completed, but the notification will be outside of the timeframe of the Grievances and Appeals Process. You do not need to resubmit this claim to CDCR.

Decision: Under Investigation

STAFF USE ONLY

Grievance #: _____ Date Received: _____
 Date Due: _____
 Categories: _____

This is the process to ask for help with a complaint.

Claimant Name: EKENE, LINUS CDCR #: F84633 Current Housing/Parole Unit: C-12, 226
 Institution/Facility/Parole Region: MULE CREEK STATE PRISON

In order for the Department to understand your complaint, make sure you have answered the following questions:

- What is the nature of your complaint?
- When and where did the complaint occur?
- Who was involved?
- Which specific people can support your complaint?
- Did you try to informally resolve the complaint?
- What rule or policy are you relying on to make your complaint?
- Are there documents that would be helpful to support your position? List the documents if you do not have them. Please note that documents submitted with this form will not be returned.
- What specific action would resolve your complaint?

ON SEPTEMBER 8, 2020, APPROXIMATELY 7:45 AM, CORRECTIONAL OFFICER R. COOK AND OFFICER D. LAUGHLIN CAME TO MY CELL AND OFFICER LAUGHLIN SAID TO ME, THAT THEY ARE TIRED OF THE 602'S THAT I WAS WRITING AND THAT HE WANTS ME TO MOVE OUT OF MULE CREEK STATE PRISON BUILDING-5, AND OFFICER COOK SAID TO ME, IF YOU DO NOT MOVE, WE WILL PLANT A WEAPON IN YOUR CELL AND MOVE YOU TO AD-SEC.

APPROXIMATELY 2:00 PM, OFFICER R. AGREDA APPROACHED ME AT THE YARD DURING MY MENTAL HEALTH THERAPEUTIC GROUP AND TOLD ME THAT HE FOUND A WEAPON IN MY CELL; FURTHERMORE, HE TOLD ME THAT HE WAS GOING TO TAKE ME TO AD-SEC. OFFICER AGREDA, ALSO, CONFISCATED MY PRESCRIPTION EYEGLASSES AS RETALIATION.

LINUS EKEKE, HF84633

SALINAS VALLEY STATE PRISON

P.O. BOX 1050

SOLEDAD, CALIFORNIA 93960

IN THE UNITED STATE DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LINUS EKEKE,

PLAINTIFF,

CASE NO: 2:22-CV-01443

TLN-SDP

V.

SUBMITTING FIRST AMENDED
COMPLAINT

R. COOK, ET AL.,

DEFENDANTS.

I, LINUS EKEKE, PLAINTIFF, PROCEEDING PRO SE STATES
THAT THE ATTACHED IS THE FIRST AMENDED COMPLAINT THAT
THE JUDGE ORDERED.

DUE TO PRISON HAS BEEN ON LOCK-DOWN SINCE THE
SECOND WEEK OF NOVEMBER AND STILL ON THE LOCK-DOWN,
I WAS WAITING TO GAIN AN ACCESS TO LAW LIBRARY TO MAKE
COPIES OF THE COMPLAINT BEFORE I SEND IT BACK TO
THE COURT, BUT ON DECEMBER 28, 2022 I WAS
SENT TO 'AD-SEC' AND STILL AT 'AD-SEC'!

DECEMBER 29, 2022

RESPECTFULLY SUBMITTED

LINUS EKEKE 

PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. § 1746)

I, LINUS EKENE, PLAINTIFF, PRO SE, declare:

I am over 18 years of age and a party to this action. I am a resident of SALINAS VALLEY
STATE PRISON Prison.

in the county of SOLEDAD.

State of California. My prison address is: SALINAS VALLEY STATE PRISON, P.O. Box 1050,
SOLEDAD, CALIFORNIA 93960.

On DECEMBER 20, 2022
(DATE)

I served the attached: FIRST AMENDED COMPLAINT (2:22-CV-0143-TLN-JDP)
23 PAGES
(DESCRIBE DOCUMENT)

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named correctional institution in which I am presently confined. The envelope was addressed as follows:
UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA,
OFFICE OF THE CLERK, 501 "I" STREET, SUITE 4-200,
SACRAMENTO, CALIFORNIA 95814-2322

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on DECEMBER 29, 2022
(DATE)


(DECLARANT'S SIGNATURE)